

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JILL LYNN CAMP,)
)
 Plaintiff,) Civil Action No.:CV-07-AR-1281-S
)
 v.)
)
 CAPITAL ACCOUNTS, LLC,)
 a corporation; EQUIFAX)
 INFORMATION SERVICES, LLC,)
 a corporation,)
)
 Defendants.)
)
 v.)
)
 McCALLUM ENDODONTIC)
 SPECIALISTS, INC.)
)
 Third Party Defendant)

**THIRD PARTY COMPLAINT BY CAPITAL ACCOUNTS, LLC, AGAINST
McCALLUM ENDODONTIC SPECIALISTS, INC.**

AND NOW COMES Capital Accounts, LLC (“Capital”), by and through its attorney, Carolee Berasi, Esquire, and files the following Third-Party Complaint against McCallum Endodontic Specialists, Inc., in the above-captioned matter as follows:

Jurisdiction and Venue

1. Jill Lynn Camp (“Plaintiff”), has filed a Complaint against Capital in the above-captioned matter, a true and correct copy of which is attached hereto, made a part hereof and marked Exhibit “A”.

2. McCallum Endodontic Specialists, Inc. (“McCallum”), is an Alabama Corporation with its principal place of business located at 2531 Rocky Ridge Road, Suite 122, Birmingham, AL 35243-4447.
3. McCallum is liable to Capital for all sums that may be adjudged against Capital in favor of Plaintiff.

Factual Allegations

4. On August 8, 2005, McCallum engaged Capital to act as its agent to collect a debt owed to McCallum by Plaintiff in the amount of \$100.00 (the “Debt”).
5. Capital advised McCallum to report all changes in the status of Plaintiff’s account to Capital.
6. On August 9, 2005, August 24, 2005 and September 9, 2005, Capital sent letters to Plaintiff advising her that Capital was attempting to collect the Debt on behalf of McCallum.
7. Said letters sent to Plaintiff by Capital were not returned to Capital by the postal authorities.
8. On October 15, 2005, Plaintiff filed a bankruptcy petition under Chapter 7 in the United States Bankruptcy Court for the Northern District of Alabama, Southern Division at case number 05-12658-BGC7 (the “Bankruptcy”).
9. McCallum received actual notice of the filing of the Bankruptcy.
10. McCallum failed to provide notice of the filing of the Bankruptcy to Capital at the time McCallum received such notice, or at any time prior to the commencement of the instant action.
11. Capital never received any notice of the filing of the Bankruptcy.

12. McCallum received actual notice of Plaintiff's discharge in the Bankruptcy, including an Explanation of Bankruptcy Discharge (the "Discharge").
13. McCallum failed to provide notice of the Discharge to Capital at the time McCallum received said notice or at any time prior to the commencement of the instant action.
14. Capital never received any notice of Plaintiff's Discharge.
15. Capital received a notice of dispute and request for validation of the Debt from Defendant, Equifax Information Services, LLC ("Equifax"), which notice failed to contain any reference to the filing of the Bankruptcy and/or the Discharge (the "Notice of Dispute").
16. Upon receipt of the Notice of Dispute from Equifax, Capital contacted McCallum to ascertain the status of the Debt.
17. In response thereto, McCallum failed to advise Capital of the filing of the Bankruptcy or the Discharge, at that time, or at any time prior to the commencement of the instant action but instead, McCallum advised Capital that the Debt was still valid.
18. Based upon McCallum's response to Capital's request to ascertain the status of Plaintiff's account with McCallum, and with no notice whatsoever of the Bankruptcy or the Discharge, Capital reported to Equifax that the Debt was still valid.
19. At all times relevant hereto, Capital was acting as an agent for a disclosed principal, McCallum.

20. McCallum intentionally failed to report the filing of the Bankruptcy and discharge of Plaintiff in the Bankruptcy to Capital.
21. McCallum was negligent in failing to report the filing of the Bankruptcy and discharge of Plaintiff in the Bankruptcy to Capital.
22. In the event that an award is entered in favor of Plaintiff and against Capital, and/or damages are assessed and/or a judgment is entered against Capital in the instant matter, McCallum is liable to Capital for any such award, damages and/or judgment.
23. McCallum is liable to Capital for the costs and expenses of this suit, including but not limited to reasonable attorneys' fees.

WHEREFORE, Capital prays that this Honorable Court:

1. Dismiss Plaintiff's case against Capital;
2. Enter an award in favor of Capital and against McCallum for any award, damages or judgment awarded in favor of Plaintiff and against Capital;
3. Enter an award in favor of Capital and against McCallum for costs and expenses of suit, including but not limited to reasonable attorneys' fees; and
4. Grant all further relief to Capital to which it is entitled.

Respectfully submitted,

s/Carolee Berasi
Carolee Berasi, Esquire
1827 Powers Ferry Road
Building # 5
Atlanta, GA 30339
Telephone: 678-302-0610
Facsimile: 678-302-0615
caroleeberasi@usecapital.com

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v.)
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McCALLUM ENDODONTIC)
SPECIALISTS, INC.)
Third Party Defendant)

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CERTIFICATE OF SERVICE

I, Carolee Berasi, do hereby certify that on August 16, 2007, I filed the foregoing Third Party Complaint by Capital Accounts, LLC against McCallum Endodontic Specialists, Inc., with the Clerk of the Court using the CM/ECF system which will electronically send notification of such filing to:

M. Stan Herring
M. Stan Herring, P.C.
700 29th Street South
Birmingham, AL 35233

John G. Watts
Watts Law Group, P.C.
P.O. Box 531168
Birmingham, AL 35253

Douglas Bryant, Esquire
Miller Hamilton, Snider & Odom, LLC
500 Financial Center
505 20th Street North
Birmingham, AL 35203

s/ Carolee Berasi
Carolee Berasi, Esquire
1827 Powers Ferry Road
Building # 5

Atlanta, GA 30339
Telephone: 678-302-0610
Facsimile: 678-302-0615
caroleeberasi@usecapital.com